

REMARKS

The Examiner is provided with a copy of a page of an Information Disclosure Statement filed December 19, 2001 (Attachment A). A copy of the postcard acknowledging receipt of the Information Disclosure Statement by the Patent and Trademark Office is also provided (Attachment B). This page of the Information Disclosure Statement was not acknowledged in the last office action.

The Examiner notes that specific references listed on the Information Disclosure Statement filed December 19, 2001 have not been considered as no copy of the reference was provided. Applicant will submit a supplemental Information Disclosure Statement listing and providing copies of these references under separate cover at a later date.

Claim 1 has been amended. In compliance with 37 C.F.R. §121(c)(3), a clean version of the entire set of pending claims is being submitted, as is a marked-up version showing changes in the amended claim relative to the previous version of the claim.

New claims 2-7 are submitted for prosecution. Support for this subject matter can be found in the specification as filed, e.g., page 71, line 27 to page 86, line 24. No new matter has been added.

Claims 1-7 remain in the application. Of these, claim 1 is an independent apparatus claim.

Claim 1 is rejected under 35 U.S.C. §102(e) as anticipated by Wayne et al. U.S. 6,014,581 (Wayne '581). Through Applicant's claim of priority, the instant application has an effective filing date of 19 February 1998. Therefore, Applicant does not believe that Wayne '581, having a filing date of 26 March 1998, is prior art as to the instant application. Further, Wayne '581 does not teach or suggest, as defined by amended claim 1, an interface having a sensor associated with an electrode structure to monitor a surface tissue temperature condition and an operating system to generate a viewable image on a display screen that includes an indicator image that displays changes in the monitored surface tissue temperature over time.

Claim 1 is rejected under the judicially created doctrine of double patenting over claims 1-14 of U.S. Patent No. 6,358,245 (the '245 Patent). Applicant will submit a terminal disclaimer based on the '245 Patent upon indication of allowable subject matter, but for the double patenting rejection.

Claim 1 is rejected under the judicially created doctrine of double patenting over claims 1-11 of U.S. Patent No. 6,464,689 (the '689 Patent) and claims 1-52 of U.S. Patent No. 6,273,886 (the '886 Patent). The Examiner relies upon the rationale of *In re Schneller* (the Schneller case). Applicant respectfully traverses these rejections, because Applicant does not believe the rationale of the Schneller Case applies.

MPEP §804(II)(B)(2) requires a side by side comparison of claims of the instant application and the claims of the '689 and '886 Patents, keeping in mind that only the claims of the '689 and '886 Patents can be considered as support for the rejection, and the disclosures of these Applications are looked to only to determine the meaning of the claims. The fundamental rationale of the Schneller Case is whether allowance of the claims in the instant case would extend the protection of the '689 and '886 Patents, or vice versa.

Applicant respectfully submits that the instant application's claims are drawn to subject matter that is independent and distinct from the subject matter claimed in the '689 and '886 Patents.

The claims in the '689 Patent would not extend the right to exclude granted by the claims in the instant application, if allowed, and vice versa. The claims in the instant application would not permit Applicant to per se exclude the making, selling, or use of a device having a usage key card, a controller having a first data state prior to downloading of an identification code and a second data state in response to downloading of the identification code, and a display screen that changes in response to processing of the identification code, in the absence, e.g., of an electrode structure to monitor a surface tissue temperature condition and a display screen that includes an idealized image of the electrode structure and a second image that displays changes in the monitored surface tissue temperature over time. Nor would the claims of the '689 Patent permit Applicant to per se exclude the making, selling, or use of a device in which a sensor is associated with an electrode structure to monitor a surface tissue temperature condition and an operating system generates viewable images on a display screen that includes an idealized image of the electrode structure and a second image that displays changes in the monitored surface tissue temperature over time, in the absence, e.g., of a usage key card, a controller having a first data state prior to downloading of an identification code and a second data state in response to downloading of the identification code, and a display screen that changes in response to processing of the identification code.

There are no subcombination claims present in either the instant application or the '689 Patent, i.e., the instant application does not include claims incorporating a usage key card or a controller having a first data state prior to downloading of an identification code and second data state in response to downloading of the identification code or a display screen that changes in response to processing of the identification code, as in the '689 Patent, nor does the '689 Patent include claims incorporating a sensor associated with an electrode structure to monitor a surface tissue temperature condition and an operating system generates a viewable image on a display screen that includes an image that displays changes in the monitored surface tissue temperature over time, as in the instant Application. This is in sharp contrast to the Schneller Case, where there was "ABCX" claimed in the one case that could be considered part of an "ABCXY" being claimed in another case. Applicant would not be traversing the Examiner's double patenting rejection if such subcombination claims were present. However, in the absence of such subcombination claims, Applicant respectfully traverses the double patenting rejection.

Applicant believes the same circumstances exist with respect to the instant application and the '886 Patent. The claims in the '886 Patent would not extend the right to exclude granted by the claims in the instant application, if allowed, and vice versa. The claims in the instant application would not permit applicant to per se exclude the making, selling, or use of a device having a generator and a pumping mechanism and in which a display screen shows animated visual images indicating operation of the generator and pumping mechanism, as defined in the claims of the '886 Patent, in the absence, e.g., of an electrode structure to monitor a surface tissue temperature condition and a display screen that includes an idealized image of the electrode structure and a second image that displays changes in the monitored surface tissue temperature over time. Nor would the claims of the '886 Patent permit applicant to per se exclude the making, selling, or use of a device in which a sensor is associated with an electrode structure to monitor a surface tissue temperature condition and an operating system generates viewable images on a display screen that includes an idealized image of the electrode structure and a second image that displays changes in the monitored surface tissue temperature over time, in the absence, e.g., of a generator, a pumping mechanism, and a display screen showing animated visual images indicating operation of the generator and pumping mechanism.

There are no subcombination claims present in either the instant application or the '886

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Amendment A

Patent, i.e., the instant application does not include claims incorporating a generator and a pumping mechanism or a display screen that shows animated visual images indicating operation of the generator and pumping mechanism, as in the '886 Patent, nor does the '886 Patent include claims incorporating a sensor associated with an electrode structure to monitor a surface tissue temperature condition and an operating system generating a viewable image on a display screen that includes an image that displays changes in the monitored surface tissue temperature over time, as in the instant Application. Again, this is in sharp contrast to the Schneller Case, where subcombination claims were present. As earlier stated, Applicant would not be traversing the Examiner's double patenting rejection if such subcombination claims were present. However, in the absence of such subcombination claims, Applicant respectfully traverses the double patenting rejection.

Allowance of claims 1-7 is respectfully requested.

Respectfully submitted,

By Patricia A. Limbach
Patricia A. Limbach
Registration No. 50,295

RYAN KROMHOLZ & MANION, S.C.
P.O. Box 26618
Milwaukee, Wisconsin 53226-0618
May 28, 2003
024747a.ldr

Marked-Up Version of Amended Claim 1

1 (Amended). An interface for association with an electrode structure which, in use, is deployed in contact with a tissue region, the interface comprising

a sensor associated with the electrode structure to monitor a surface tissue temperature condition of tissue heated by the electrode,

an input adapted to be attached to [a] the sensor [carried at a known location on the electrode structure to monitor an operating condition],

a display screen, and

an operating system to generate [a] viewable images on the display screen, the viewable images comprising an idealized image of the electrode structure and a[n indicator] second image [to represent] that displays changes in the monitored [operating condition] surface tissue temperature over time [in a spatial position on the idealized image corresponding to the location of the sensor on the electrode structure].



Attachment A

Notice of References Cited**U.S. PATENT DOCUMENTS**

*		Document Number	Date	Name	Classification	
		Country Code-Number-Kind Code	MM-YYYY			
✓	A	US-6,023,638-A	02-2000	Swanson	600	510
✓	B	US-5,931,835-A	08-1999	Mackey	606	34
✓	C	US-6,014,581-A	01-2000	Whayne et al	600	523
✓	D	US-5,916,163-A	06-1999	Panescu et al	600	424
✓	E	US-5,891,030-A	04-1999	Johnson et al	600	407
	F	US- -				
	G	US- -				
	H	US- -				
	I	US- -				
	J	US- -				
	K	US- -				
	L	US- -				
	M	US- -				

RECEIVED**JUN 05 2003****TECHNOLOGY CENTER R3700****FOREIGN PATENT DOCUMENTS**

*		Document Number	Date	Country	Name	Classification	
		Country Code-Number-Kind Code	MM-YYYY				
	N	- -					
	O	- -					
	P	- -					
	Q	- -					
	R	- -					
	S	- -					
	T	- -					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



Attachment B

Divisional patent application of Stuart D. Edwards, John Gaiser, David Wiley, Scott West and Jay Qin entitled Graphical User Interface for Association with an Electrode Structure Deployed in Contact with a Tissue Region, consisting of: transmittal letter with added pages for divisional data; 86 pages specification, 1 page claims, 1 page abstract, 41 sheets formal drawings; copy of Combined Declaration/Power of Attorney and Verified Statement from parent application; Information Disclosure Statement (without cited references); and Check No. 9203 \$370.00.

Sent by Express Mail Label No. EL 889147602 on 19 December 2001

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JC832 U.S. PTO
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